



1995 SENATE BILL 309

August 23, 1995 - Introduced by Senators SCHULTZ, ROSENZWEIG, JAUCH, BRESKE, CLAUSING, RUDE, PANZER and COWLES, cosponsored by Representatives FREESE, MUSSER, HAHN, OURADA, GRONEMUS, BALDUS, HARSDFORF, ZUKOWSKI, HANDRICK, VRAKAS, BOYLE, SERATTI, GOETSCH, ALBERS, RILEY, AINSWORTH, URBAN, GROTHMAN, UNDERHEIM, BRANCEL and GREEN, by request of Rural Wisconsin Health Cooperative.. Referred to Committee on Health, Human Services and Aging.

1 **AN ACT to repeal** 50.02 (6); **to amend** 20.435 (1) (gm); and **to create** subchapter
2 III of chapter 50 [precedes 50.50], 146.81 (1) (p) and 146.82 (2) (a) 17. of the
3 statutes; **relating to:** regulating rural medical centers, granting rule-making
4 authority, making an appropriation and providing penalties.

Analysis by the Legislative Reference Bureau

Under current law, the department of health and social services (DHSS) must investigate the concept of regulating a new category of health care providers known as rural medical centers.

This bill eliminates that provision and establishes rural medical centers as a category of health care providers that, beginning on July 1, 1996, must be licensed, inspected and otherwise regulated by DHSS. Under the bill, a facility may be regulated as a rural medical center if it is organized under a single governing and corporate structure, is located in a county, city, town or village that has a population of less than 15,000 and in an area that the federal bureau of the census has not defined as an urbanized area and if it provides 2 or more health care services. The health care services are those provided by a hospital, a rural primary care hospital (as defined in (the bill), a nursing home, a hospice, a rural health clinic or an ambulatory surgery center; or they are home health services, outpatient physical therapy services, end-stage renal disease services or services that are specified by DHSS by rule.

The bill establishes licensing procedures and requires that DHSS promulgate rules that establish standards for operation of rural medical centers, minimum requirements for license issuance, licensure fee amounts, and procedures and criteria for waiver of or variance from standards and requirements. As part of license issuance, DHSS must inspect the health care services provided by an applying rural medical center, except that DHSS may, instead, accept evidence that an applicant has certain current state licensure or approval, has a current medicare provider

agreement, has been designated as a rural primary care hospital or satisfies requirements in DHSS rules. The bill exempts a hospital, nursing home, hospice or home health agency that provides all of its services as part of a licensed rural medical center from obtaining licensure or approval and paying license or approval fees under other state laws. These facilities are not, however, exempted from standards and other regulations for operation under those licensing laws, unless the laws conflict with laws regulating rural medical centers. The bill authorizes DHSS to conduct unannounced inspections of rural medical centers and requires a rural medical center to provide access to any patient health care records necessary to fulfill the purpose of any DHSS inspections or investigations. The bill prohibits an unlicensed entity from using the phrase "rural medical center" to describe itself, prohibits intentional interference with any investigation by DHSS of alleged violations, prohibits certain intentional retaliation or discrimination against employes or patients and prohibits intentional destruction or modification of original inspection reports.

For further information see the *state and local* fiscal estimate, which will be printed as an appendix to this bill.

The people of the state of Wisconsin, represented in senate and assembly, do enact as follows:

1 **SECTION 1.** 20.435 (1) (gm) of the statutes is amended to read:

2 20.435 (1) (gm) *Licensing, review and certifying activities.* The amounts in the
3 schedule for the purposes specified in ss. 50.135, 50.49 (2) (b), 50.52 (2) (a), 146.50
4 (8), 250.05 (6), 252.22 (7), 254.176, 254.178, 254.20 (5) and (8), 254.31 to 254.39,
5 254.47, 254.61 to 254.89 and 255.08 (2), subch. IV of ch. 50 and ch. 150. All moneys
6 received under ss. 50.135, 50.49 (2) (b), 50.52 (2) (a), 50.93 (1) (c), 146.50 (8) (d),
7 150.13, 250.05 (6), 252.22 (7), 254.176, 254.178, 254.20 (5) and (8), 254.31 to 254.39,
8 254.47, 254.61 to 254.89 and 255.08 (2) (b), less the amounts appropriated under s.
9 20.488 (1) (g), shall be credited to this appropriation.

10 **SECTION 2.** 50.02 (6) of the statutes is repealed.

11 **SECTION 3.** Subchapter III of chapter 50 [precedes 50.50] of the statutes is
12 created to read:

13

CHAPTER 50

1 SUBCHAPTER III

2 RURAL MEDICAL CENTERS

3 **50.50 Definitions.** In this subchapter:

4 (1) "Ambulatory surgery center" has the meaning given in s. 49.45 (6r) (a) 1.

5 (2) "End-stage renal disease services" has the meaning given under 42 CFR
6 405.2102.

7 (3) "Health care services" means any of the following:

8 (a) Care that is provided in or by any of the following:

9 1. A hospital.

10 2. A nursing home.

11 3. A hospice.

12 4. A rural health clinic.

13 5. An ambulatory surgery center.

14 6. A rural primary care hospital.

15 (b) Home health services.

16 (c) Outpatient physical therapy services.

17 (d) End-stage renal disease services.

18 (e) Services that are specified in rules that the department promulgates.

19 (4) "Home health services" has the meaning given in s. 50.49 (1) (b).

20 (5) "Hospice" has the meaning given in s. 50.90 (1).

21 (6) "Hospital" has the meaning given in s. 50.33 (2) (a) or (b), except that
22 "hospital" does not include a rural primary care hospital.

23 (7) "Medicare" has the meaning given in s. 49.45 (3) (L) 1. b.

24 (8) "Outpatient physical therapy services" has the meaning given under 42
25 USC 1395x (p).

1 **(9)** “Patient” means an individual who receives services from a rural medical
2 center.

3 **(10)** “Rural health clinic” has the meaning given under 42 USC 1395x (aa) (2).

4 **(11)** “Rural medical center” means an arrangement of facilities, equipment,
5 services and personnel that is all of the following:

6 (a) Organized under a single governing and corporate structure.

7 (b) Capable of providing or assuring health care services, including appropriate
8 referral, treatment and follow-up services, at one or more locations in a county, city,
9 town or village that has a population of less than 15,000 and that is in an area that
10 is not an urbanized area, as defined by the federal bureau of the census.

11 (c) A provider of at least 2 health care services under the arrangement or
12 through a related corporate entity.

13 **(12)** “Rural primary care hospital” means a facility that is currently designated
14 by the federal health care financing administration as meeting the applicable
15 requirements of 42 USC 1395i-4 (i) (2) and of 42 CFR 485, Subpart F.

16 **50.51 Departmental powers.** The department shall do all of the following:

17 **(1)** Provide uniform, statewide licensing, inspection and regulation of rural
18 medical centers as specified in this subchapter.

19 **(2)** Promulgate rules that establish all of the following:

20 (a) For the operation of licensed rural medical centers, standards that are
21 designed to protect and promote the health, safety, rights and welfare of patients who
22 receive health care services in rural medical centers.

23 (b) Minimum requirements for issuance of a provisional license, a regular
24 initial license or a license renewal to rural medical centers.

1 (c) Fees for rural medical center provisional licensure and regular initial
2 licensure and licensure renewal. The amounts of the fees shall be based on the health
3 care services provided by the rural medical center.

4 (d) A procedure and criteria for waiver of or variance from standards under par.
5 (a) or minimum requirements under par. (b).

6 **50.52 Licensing procedure and requirements. (1)** No person may be
7 required to obtain licensure as a rural medical center, except that no person may
8 conduct, maintain, operate or permit to be conducted, maintained or operated health
9 care services as a rural medical center unless the rural medical center is licensed by
10 the department.

11 **(2)** The department shall issue a provisional license, a regular initial license
12 or a license renewal as a rural medical center to an applicant if all of the following
13 are first done:

14 (a) The applicant pays the appropriate license fee, as established under s. 50.51
15 (2) (c). Fees collected under this paragraph shall be credited to the appropriation
16 under s. 20.435 (1) (gm) for licensing and inspection activities.

17 (b) Except as provided in par. (c), the department inspects the health care
18 services provided by the applying rural medical center and finds that the applicant
19 is fit and qualified and meets the requirements and standards of this subchapter and
20 the rules promulgated under this subchapter.

21 (c) In lieu of conducting the inspection under par. (b), the department accepts
22 evidence that an applicant meets one of the following requirements:

23 1. Has applicable current, valid state licensure or approval as a hospital, a
24 nursing home, a hospice or a home health agency.

1 2. Has an applicable, current agreement to participate as an eligible provider
2 in medicare.

3 3. Is a rural primary care hospital.

4 4. Satisfies qualifications that are specified by the department by rule.

5 **(3)** Each license shall bear the name of the owner of the rural medical center,
6 the name and address of the rural medical center and the health care services that
7 the department authorizes the rural medical center to provide.

8 **(4)** Unless sooner revoked or suspended, a regular initial license or a license
9 renewal issued to a rural medical center is valid for 24 months from the date of
10 issuance and a provisional license issued to a rural medical center is valid for 6
11 months from the date of issuance.

12 **(5)** Each license shall be issued only for the rural medical center and owner that
13 are named in the license application and may not be transferred or assigned.

14 **50.53 Inspections and investigations.** **(1)** The department may conduct
15 unannounced inspections or investigations of a rural medical center as the
16 department considers necessary.

17 **(2)** A rural medical center that is inspected or investigated under this section
18 shall provide the department with access to patient health care records, regardless
19 of the source of patient health care payment, to fulfill the purpose of any inspections
20 or investigations that the department conducts.

21 **50.54 Prohibitions.** **(1)** An entity that is not licensed as a rural medical
22 center under this subchapter may not designate itself as a "rural medical center" or
23 use the phrase "rural medical center" to represent or tend to represent the entity as
24 a rural medical center or services provided by the entity as health care services
25 provided by a rural medical center.

1 **(2)** No person may do any of the following:

2 (a) Intentionally prevent, interfere with or impede an investigation by the
3 department of an alleged violation or enforcement by the department of a
4 requirement of this subchapter or the rules promulgated under this subchapter.

5 (b) Intentionally retaliate or discriminate against a patient or rural medical
6 center employe for doing any of the following:

7 1. Contacting or providing information to a state agency, as defined in s. 16.004
8 (12) (a).

9 2. Initiating, participating in or testifying in an action to enforce any provision
10 of this subchapter or rules promulgated under this subchapter.

11 (c) Intentionally destroy or modify the original report of an inspection that the
12 department conducts under this subchapter or the rules promulgated under this
13 subchapter.

14 **50.55 Penalties and remedies. (1) FORFEITURES.** (a) Any person who
15 violates this subchapter or any rule promulgated under this subchapter, except s.
16 50.54 (2), may be required to forfeit not less than \$100 nor more than \$500 for each
17 offense. Each day of continued violation constitutes a separate offense.

18 (b) In determining whether a forfeiture is to be imposed and in fixing the
19 amount of the forfeiture to be imposed, if any, for a violation, the department shall
20 consider all of the following factors:

21 1. The gravity of the violation.

22 2. Good faith exercised by the licensee.

23 3. Any previous violations committed by the licensee.

24 4. The financial benefit to the rural medical center of committing or continuing
25 to commit the violation.

1 (c) The department may directly assess forfeitures provided for under par. (a).
2 If the department determines that a forfeiture should be assessed for a particular
3 violation or for failure to correct it, the department shall send a notice of assessment
4 to the rural medical center. The notice shall specify the amount of the forfeiture
5 assessed, the violation, and the statute or rule alleged to have been violated, and
6 shall inform the licensee of the right to a hearing under par. (d).

7 (d) A rural medical center may contest an assessment of forfeiture by sending,
8 within 10 days after receipt of notice under par. (c), a written request for hearing
9 under s. 227.44 to the division of hearings and appeals under s. 15.103 (1). The
10 division shall commence the hearing within 30 days after receipt of the request for
11 hearing and shall issue a final decision within 15 days after the close of the hearing.
12 Proceedings before the division are governed by ch. 227.

13 (e) All forfeitures shall be paid to the department within 10 days after receipt
14 of notice of assessment or, if the forfeiture is contested under par. (d), within 10 days
15 after receipt of the final decision, unless the final decision is appealed and the
16 decision is in favor of the appellant. The department shall remit all forfeitures paid
17 to the state treasurer for deposit in the school fund.

18 **(2) OTHER PENALTY.** Whoever violates s. 50.54 (2) may be fined not more than
19 \$1,000 or imprisoned for not more than 6 months or both.

20 **(3) INJUNCTION.** The department may, upon the advice of the attorney general,
21 who shall represent the department in all proceedings under this subsection,
22 institute an action in the name of the state in the circuit court for Dane County for
23 injunctive relief or other process against any licensee, owner, operator,
24 administrator or representative of any owner of a rural medical center for the
25 violation of any of the provisions of this subchapter or rules promulgated under this

1 subchapter if the department determines that the violation seriously affects the care,
2 treatment, health, safety, rights, welfare or comfort of patients.

3 **50.56 Applicability. (1)** Any of the following facilities or entities is not
4 required to obtain licensure or a certificate of approval under the following statutes
5 or to pay initial or renewal license fees under the following statutes if all of the
6 services of the facility or entity are provided as a part of a rural medical center that
7 holds a current, valid license under this subchapter:

8 (a) A hospital, under ss. 50.135 (2) (a) and (b) and 50.35.

9 (b) A nursing home, under ss. 50.03 (1) and 50.135 (2) (a) and (b).

10 (c) A hospice, under ss. 50.92 (1) and 50.93 (1) (c).

11 (d) A home health agency, under s. 50.49 (2) (b) and (8).

12 **(2)** Subsection (1) may not be construed to apply to limit the authority of the
13 department to develop, establish or enforce any statutes and rules for the care,
14 treatment, health, safety, rights, welfare and comfort of patients or residents of
15 facilities or entities that are specified in sub. (1) (a) to (d) and for the construction,
16 general hygiene, maintenance or operation of those facilities or entities.

17 **(3)** Notwithstanding sub. (2), insofar as a conflict exists between this
18 subchapter, or the rules promulgated under this subchapter, and subch. I, II or IV,
19 or the rules promulgated under subch. I, II or IV, the provisions of this subchapter
20 and the rules promulgated under this subchapter control.

21 **SECTION 4.** 146.81 (1) (p) of the statutes is created to read:

22 146.81 (1) (p) A rural medical center, as defined in s. 50.50 (11).

23 **SECTION 5.** 146.82 (2) (a) 17. of the statutes is created to read:

24 146.82 (2) (a) 17. To the department under s. 50.53 (2).

25 **SECTION 6. Effective date.**

